IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 798 of 2001

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T CORPN

Versus

JUMABHAI OSMANBHAI

Appearance:

MR ASHISH M DAGLI for Petitioner

MR MUKESH H RATHOD for Respondent

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 12/07/2004

ORAL JUDGEMENT

1.0 The petitioner Corporation in this petition has challenged the judgement and award dated 1st March 2000 passed by the Industrial Tribunal, Rajkot in Reference (ITR) No.305/1992.

2.0 The respondent workman was working with the petitioner Corporation as a Conductor. On 29th August 1982 the Checking Inspector found that the respondent workman had not issued tickets to four passengers, even

though he had collected fare from them in advance. According to the checking authority, the respondent had refused to give statement, refused to put an endorsement on the statement given by the passengers, did not allow the Checking Inspector to count the S.T.cash and gave threat to file a complaint against the Checking Inspector. A chargesheet was issued to the petitioner and departmental inquiry was initiated. At the end of the departmental inquiry, as the charges were proved, by way of punishment, the petitioner was put on his original pay by order dated 29th June 1984.

3.0 Against the aforesaid decision dated 29th June 1984, the respondent workman preferred Reference (ITR) No.305/1992 before the learned Industrial Tribunal, Rajkot. The Tribunal, after hearing both the parties, partly allowed the said reference by its judgement and award dated 1.3.2000 and substituted the penalty of putting the petitioner on his original pay with stoppage of three increments with permanent effect. It is against the said decision the present petition has been preferred.

4.0 Learned counsel for the petitioner submitted that the respondent workman had committed serious misconduct of misappropriation of money and therefore there was no justification for reduction in punishment. According to the learned counsel, the charges levelled against the respondent workmen were proved and the Tribunal ought not to have scrutinised the evidence again. Learned counsel submitted that the respondent workman had committed various misconducts at nine times during his service from November 1976 to December 1981.

5.0 Learned counsel for the respondent submitted that the Tribunal was fully justified in substituting the penalty inasmuch as the penalty imposed upon the respondent workman was very harsh and disproportionate. He pointed out that the Tribunal has given cogent and sufficient reasons for substituting the penalty.

6.0 I have heard the learned counsel for the respective parties and carefully examined the evidence on record. According to the learned counsel for the petitioner, the respondent workman had committed 9 defaults earlier. However, the petitioner has failed to produce the default card on record. As far as the present case is concerned, looking to the allegations levelled against the respondent workman, in my view, the Tribunal was justified in holding that the penalty imposed upon the respondent was very harsh and

disproportionate to the charges levelled against him. The Tribunal has elaborately discussed the evidence in para 13 of the judgement and therefore no interference is called for in the present case.

7.0 In the result, the petition is rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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